IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JASON ARTHUR, Petitioner, v. BUREAU OF PRISONS, *et al*., Respondents.	NO. 3:17-CV-01123 (JUDGE CAPUTO) (MAGISTRATE JUDGE SCHWAB)

MEMORANDUM

Presently before me is the Motion to Alter or Amend Judgment (Doc. 39) filed by Petitioner Jason Arthur ("Arthur"). For the reasons that follow, the motion will be denied.

I. Background

The pertinent facts were set forth as follows in my April 15, 2019 Opinion:

> Arthur was convicted in 1998 in the United States District Court for the District of Massachusetts on a variety of charges, including racketeering, murder in aid of racketeering, conspiracy to commit racketeering, possession with intent to distribute cocaine base, and conspiracy to distribute cocaine base. *See United States v. Patrick*, 248 F.3d 11, 16 (1st Cir. 2001). Arthur was sentenced to life imprisonment. *See id*.
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> Arthur filed a direct appeal of his conviction and sentence to the United States Court of Appeals for the First Circuit. *See id*. The First Circuit affirmed the conviction and sentence. *See id*. at 28. The United States Supreme Court denied Arthur's petition for writ of certiorari. *See Arthur v. United States*, 534 U.S. 1043, 122 S. Ct. 620, 151 L. Ed. 2d 542 (2001).
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> Arthur subsequently filed a motion in the sentencing court pursuant to 28 U.S.C. § 2255 on December 19, 2002. *See Arthur v. United States*, No. 03-10033, (D. Mass. Dec. 19, 2002), ECF No. 1. The § 2255 motion was denied on February 15, 2006. *See Arthur v. United States*, No. 03-10033, (D. Mass. Dec. 19, 2002), ECF No. 15. However, the district court granted Arthur a limited certificate of appealability. *See Arthur v. United States*, No. 03-10033, 2007 WL 1933237, at *4 (D. Mass. June 28, 2007). The First Circuit affirmed the judgment of the district court denying Arthur's collateral challenge on October 15, 2008.

> *See Arthur v. United States*, No. 03-10033, (D. Mass. Dec. Feb. 2, 2009), ECF No. 28.
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> Arthur filed the instant petition pursuant to 28 U.S.C. § 2241 in this Court on June 20, 2017 while incarcerated at FCI-Allenwood. (*See* Doc. 1, *generally*). Therein, Arthur states: "pursuant to the Supreme Court's holding in *Descamps v. United States*, 133 S. Ct. 2276 (US 2013) and *Mathis v. United States*, 136 S. Ct. 2243 (US 2016), Petitioner is actually innocent of being a career offender." (*Id*. at ¶ 13).

On March 12, 2019, Magistrate Judge Schwab recommended that the petition be dismissed for lack of jurisdiction because "challenges to sentence enhancements must be brought through § 2255 motions rather than through § 2241 petitions." (*See* Doc. 32, 7-8). Arthur objected to the Magistrate Judge's recommendation. (*See* Doc. 34, *generally*).

I overruled Arthur's objections, adopted the Report and Recommendation, and dismissed the petition without prejudice for lack of jurisdiction on April 15, 2019. (*See* Doc. 38, *generally*). In the accompanying Opinion, I explained that as Arthur's objections were "general in nature", the Report and Recommendation was subject to clear error review. (*See* Doc. 37, 5). Finding none, the Report and Recommendation was adopted. (*See id*.). I also noted that Arthur could not proceed by way of § 2241 because he failed to show that § 2255 was inadequate or ineffective to test the legality of his detention. (*See id*. at 5-6).

Arthur timely filed a motion to alter or amend judgment pursuant to Federal Rule of Civil Procedure 59(e). (*See* Doc. 39, *generally*). The motion to alter or amend judgment has been fully briefed and is ripe for disposition.

II. Discussion

Pursuant to Federal Rule of Civil Procedure 59(e), a party may move "to alter or amend a judgment." Fed. R. Civ. P. 59(e). The scope of a motion for reconsideration of a final judgment under Rule 59(e) is extremely limited. *Blystone v. Horn*, 664 F.3d 397, 415 (3d Cir. 2011). It may be used only to "correct manifest errors of law or fact or to present newly discovered evidence." *Max's Seafood Cafe*

ex rel. Lou-Ann, Inc. v. Quinteros, 176 F.3d 669, 677 (3d Cir. 1999). To prevail on a motion for reconsideration under Rule 59(e), the movant must show at least "one of the following grounds: (1) an intervening change in controlling law; (2) the availability of new evidence that was not available when the court ... [rendered the judgment in question]; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice." *U.S. ex rel. Shumann v. Astrazeneca Pharm. L.P.*, 769 F.3d 837, 848-49 (3d Cir. 2014) (citing *Max's Seafood Café*, 176 F.3d at 677). "A motion for reconsideration is not to be used as a means to reargue matters already argued and disposed of or as an attempt to relitigate a point of disagreement between the Court and the litigant." *Odgen v. Keystone Residence*, 226 F. Supp. 2d 588, 606 (M.D. Pa. 2002).

Arthur's motion will be denied. Arthur has not presented a change in controlling law, cited the availability of new evidence, or identified a clear error of law or fact to prevent manifest injustice. And, as I explained in dismissing the petition without prejudice, Arthur has not demonstrated that§ 2255 would be inadequate or ineffective, so he cannot proceed here by way of § 2241. *See*, *e.g.*, *Murray v. Warden Fairton FCI*, 710 F. App'x 518, 520 (3d Cir. 2018).

III. Conclusion

For the above stated reasons, the motion to alter or amend judgment will be denied.

An appropriate order follows.

June 3, 2019
Date

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge